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PTO/SB/21 (09-04)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/682,787	
	Filing Date	October 18, 2001	
	First Named Inventor	Beirne, Kenneth	
	Art Unit	3624	
	Examiner Name	Thu Thao Havan	
Total Number of Pages in This Submission	19	Attorney Docket Number	G07.042

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Firm Name	Buckley, Maschoff & Tatwalkar LLC		
Signature			
Printed name	Randolph P. Calhoun		
Date	November 17, 2006	Reg. No.	45,371

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Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Bieme, et al.

Application Serial No.: 09/682,787

Filing Date: October 18, 2001

For: METHOD, SYSTEM, AND
STORAGE MEDIUM FOR PRE-
SCREENING CUSTOMERS FOR
CREDIT CARD APPROVAL AT A
POINT OF SALE

) Confirmation No.: 5435

) Group Art Unit: 3691

) Examiner: Thu Thao Havan

) **AMENDED APPEAL BRIEF**

) Attorney Docket No.: G07.042

) **PTO Customer Number 28062**
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) 50 Locust Avenue
) New Canaan, CT 06840

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Dated: November 17, 2006 By: 

Edith Martin

Mail Stop Appeal Brief - Patents
Commissioner for Patents
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Sir:

Appellant hereby submits an Amended Appeal Brief to appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner in the Final Office Action mailed March 14, 2006 (the "Final Office Action"), rejecting claims 1 – 37, and in further response to a Notice of Non-Compliant Appeal Brief (37 CFR 41.37) dated November 14, 2006.

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REAL PARTY IN INTEREST

The present application is assigned to GENERAL ELECTRIC COMPANY, 1 River Road, Schenectady, New York 12345, U.S.A.

RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known to Appellants, Appellants' legal representative, or assignee, which will directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1 - 37 are pending in this application. All pending claims stand rejected and are now being appealed.

STATUS OF AMENDMENTS

No amendments are pending or were filed after the Final Office Action.

SUMMARY OF CLAIMED SUBJECT MATTER

Applying for a credit card such as, for example, a private label credit card or a commercial credit card (e.g., VISA, Mastercard, American Express, etc.) in a store and/or at a point of sale can be time consuming or disruptive to the process of making a purchase. For example, providing additional information to apply for credit and/or making a special trip to a customer service desk to fill out various credit forms may be just two of the general requirements preceding the establishment of a credit account. Further, for a purchase using a newly approved credit account in a store, the customer

may have to transport items selected for purchase to a check out register and wait in line, perhaps a second time.

To address these and other problems, embodiments of the present invention provide a mechanism for pre-approval of credit worthy consumers, the generation of a credit offer to the consumers, and the offer acceptance by the consumers in a manner that is fast, efficient, and reliable such that the credit approval and invitation to accept may be made during a point of sale purchase transaction.

In some embodiments, the claimed credit pre-approval process is disclosed in the Specification in the context of a checkout process wherein a credit pre-approval process is performed by a system. In an instance the customer is pre-approved for credit, an invitation to accept the credit is then offered or presented to the customer. There is no disclosure of the customer initiating a request or application for credit. The invitation to accept the credit account offer is extended to the customer.

Referring to FIG. 2, an initial operation (step 202) indicates a customer proceeds to a check out station or point of sale system 104. The customer provides a customer card or store membership identification card to the system or person (e.g., sales associate) handling the sale as part of the purchasing process. During the sale check out, a valid or invalid credit pre-approval determination (step 214) operation is performed by the system. The pre-approval process is disclosed as being transparent to the customer. For pre-approved customers, an offer of credit is extended (i.e., offered) to the customer (216). The specification specifically and clearly states that the operations of accessing the customer's membership information (208), sending of data to credit information servers (212), the ending of the credit pre-screening process (210), and the determination of the pre-approval of the customer for credit is transparent to the customer. (See e.g., paragraph [0015])

In the disclosed embodiments, the customer is invited to open a credit account based on a credit pre-approval process that is performed based on information provided by the customer in the process of making a purchase. The customer does not apply for credit but instead makes a purchase and in the course of the purchasing operation a credit pre-approval process regarding the customer is performed using information

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provided by the customer for the purchase of goods/services. The customer does not apply for credit to initiate the pre-approval process. Thus, the pre-approval is not initiated by the customer

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The rejection of claims 1 – 37 under 35 USC 103(a) as being unpatentable over Lent et al., U.S. Pat. No. 6,324,534 (hereinafter, Lent) and in view of Walker et al., U.S. 6,336,104 (hereinafter, Walker).

ARGUMENT

I. Applicable Law

In rejecting claims under 35 USC § 103, the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A *prima facie* case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Evidence of a suggestion, teaching, or motivation to modify a reference may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved, see Pro-Mold & Tool Co. v. Great Lakes Plastics, Inc., 75 F.3d 1568, 1573, 37 USPQ2d 1626, 1630 (Fed. Cir. 1996), although "the suggestion more often comes from the teachings of the pertinent references," In re Rouffet, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998). The range of sources available, however, does not diminish the requirement for actual evidence. That is, the showing must be clear and particular. See, e.g., C.R. Bard Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998), cert. denied, 119 S. Ct. 1804 (1999). A broad conclusory statement regarding the obviousness of modifying a reference, standing alone, is not evidence. Thus, when an Examiner relies on general knowledge to negate patentability, that

knowledge must be articulated and placed on the record. See In re Lee, 277 F.3d 1338, 1342-45, 61 USPQ2d 1430, 1433-35 (Fed. Cir. 2002).

As will be evident from the following detailed discussion, the cited and relied upon Lent and Walker fail to disclose or suggest that for which the Examiner cites and relies upon them to disclose. Furthermore, the Examiner fails to provide any reasoning articulated in the references for concluding the claims are obvious.

II. Claims 1 - 37 are Patentable over Lent and Walker under 35 USC. 103(a)

Regarding the rejection of claims 1 – 37 under 35 USC 103(a) in the Final Office Action, Appellant notes that the Non-Final Office Action dated September 21, 2005 cited and relied upon Lent for disclosing all of the claimed aspects except for an explicit disclosure of a point of sale system. For the disclosure of a point of sale system, the Office Action relied upon Walker. That is, the September 21, 2005 Office Action cited and relied upon Lent for all of the recited aspects of claims 1, 17, and 33 except for the point of sale system. Appellant rebutted the Examiner's rejection of the claims in a Response dated December 21, 2005. (See Appellant's Response to the Office Action Dated September 21, 2006, p. 10 – 12, filed with the Office December 21, 2005)

In the Final Office Action dated March 14, 2006, the Examiner cites and relies upon Walker for "performing a credit worthiness check to determine a credit pre-approval of [a] customer, [where the] performing is done using a result of searching and without knowledge of and uninitiated by [the] customer", citing Walker, col. 4, ln. 50-67; col. 5, ln. 1-65; col. 6, ln. 42-54; col. 2, ln. 9-21; col. 7, ln. 1-15; and col. 14, ln. 14-32. Appellant respectfully notes that the Office's new arguments for the final rejection of the claims were not necessitated by any amendment of the claims by Applicant. The Office Action clearly, and for the first time, cites and relies on Walker for disclosing the claimed performing a credit worthiness check without knowledge and uninitiated by the customer. Appellant made no claim amendments in the Response to the Non-Final Office Action Dated September 21, 2005.

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The Examiner's stated reasoning for concluding that Walker discloses a credit pre-approval process wherein the credit pre-approval is done using a result of searching and without knowledge of and uninitiated by the customer is that "[W]alker discloses [a] point of sale (POS) wherein the customers are unaware of the pre-approval card until an offer is mailed or [the customer is] contacted via email." Appellant respectfully submits that knowledge of or an awareness of an approved credit card is not that which is claimed by Applicant. Thus, such a disclosure by Walker is not relevant to the claimed invention.

Applicant respectfully submits that Walker, as a matter of fact, does not disclose or suggest that for which it is cited and relied upon for disclosing. Walker fails to disclose or suggest (at least) performing a credit worthiness check to determine a credit pre-approval of the customer, the performing is done using a result of the searching and without knowledge of and uninitiated by the customer.

Walker in fact discloses authorizing a purchase price according to the terms of an installment plan. A "step 362 is also known as 'authorizing the charge', and typically comprises an evaluation of whether the credit card account meets approval criteria of the credit card issuer", Walker, col. 9, ln. 66 – col. 10, ln. 2. (See Response to January 28, 2005 Final Office Action, page 11, paragraph 1). The charge authorization is part of a purchase initiated by a customer. The charge authorization is for a purchase amount, either a total amount or an installment amount according to an installment plan. In either case, the charged purchase price is initiated by the customer making the purchases and choosing to pay using a pre-existing credit card. (See Walker, col. 8, ln. 33- col. 9, ln. 37) The option of paying by the pre-existing credit card is selected (i.e., initiated) by the customer and the installment plan is selected (i.e., initiated) by the customer.

Furthermore, the charge authorization explicitly disclosed by Walker is a conventional charge authorization that is conducted in association with a conventional credit card or credit account authorization. It is well-known by customers having a credit

card or charge account that the purchase price is authorized or approved before the sale is finalized. That is, the credit account charged in Walker is pre-existing.

Thus, the Walker customer, as a matter of fact, initiates the charge authorization by selecting to pay in installments billed to a credit account and is further aware of the authorization process since a charge authorization is a well-known aspect of charging purchases to a pre-existing credit card.

Also, Walker explicitly states, "in the present invention no additional costs need be incurred in reevaluating the credit worthiness of the purchaser." (See e.g., Walker col. 4, ln. 60 – 62) Thus, it is clear that Walker even discloses not performing a credit worthiness check since relevant credit information for providing a payment installment plan is already known. According to Walker, a credit worthiness check is not even performed.

Accordingly, Appellant respectfully submits that, as a matter of fact, neither of the cited and relied upon Walker and Lent discloses or suggests (at least) the claimed performing a credit worthiness check to determine a credit pre-approval of the customer, the performing is done using a result of the searching and without knowledge of and uninitiated by the customer.

Also, a clear error in the Final Office Action's rejection includes the Examiner's statement that Walker discloses a point of sale wherein the customer is unaware of a pre-approval credit card until an offer is mailed or the customer is contacted via email. (See Final Office Action, page 3, paragraph 1) However, Appellant does not claim that a customer is aware or unaware of a card but instead claims the performing of a credit worthiness check to determine a credit pre-approval of the customer, the performing is done using a result of the searching and without knowledge of and uninitiated by the customer. Thus, it is the performing of the credit worthiness check, not the existence of the card that is relevant regarding the pending claims.

Therefore, Appellant respectfully submits that the cited and relied upon Lent and Walker fail to disclose or suggest performing a credit worthiness check to determine

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a credit pre-approval of the customer without knowledge of and uninitiated by the customer, as claimed by Appellant.

Accordingly, for at least the foregoing reasons, Appellant respectfully submits that the cited and relied upon combination of Lent and Walker does not render claims 1, 17, and 33 obvious under 35 USC 103(a). The reconsideration and withdrawal of the rejection of claims 1, 17, and 33 are requested.

Applicant respectfully submits that dependent claims 2 - 16, 18 - 32, and 34 - 37 are patentable for at least depending on a patentable base claim.

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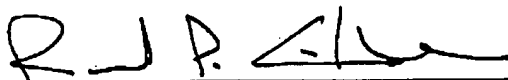
CONCLUSION

Applicants respectfully suggest that rejections of claims 1 – 37 are improper and request that the rejections be reversed. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned. If any issues remain, or if the Examiner or the Board has any further suggestions for expediting allowance of the present application, kindly contact the undersigned using the information provided below.

Respectfully submitted,

November 17, 2006

Date



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Appendix A - Claims
Appendix B - Evidence
Appendix C - Related Proceedings

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Appendix A - Claims

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The following is a complete copy of the claims involved in the appeal:

1. A method for pre-screening customer data of a customer by a selling entity at a point of sale location, comprising:

receiving said customer data at a point of sale system; and

during the course of a single check out process at said point of sale location:

transmitting said customer data to a server;

searching a database for said customer data;

performing a credit worthiness check to determine a credit pre-approval of said customer, said performing is done using a result of said searching and without knowledge of and uninitiated by said customer;

providing said customer with an invitation to open a charge account;

opening said charge account upon acceptance of said invitation by said customer; and

selectively executing a charge purchase during said check out process at said point of sale system using said opened charge account.

2. The method of claim 1, further comprising:

holding said invitation open for a predetermined period of time; and

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providing said customer with information on how to access said invitation at a future date.

3 The method of claim 1, wherein said customer data includes at least one of said customer's:

name;

address;

telephone number;

social security number;

photo identification card; and

membership card relating to said selling entity.

4. The method of claim 1, further comprising determining whether a membership status of said customer is active or inactive; wherein further said credit worthiness check is performed on customer data with an active status.

5. The method of claim 1, further comprising determining whether said customer has a current charge account with said selling entity.

6. The method of claim 1 wherein said credit worthiness check is performed by a credit bureau.

7. The method of claim 1, wherein said credit worthiness check is performed by a credit issuer.

8. The method of claim 1 wherein said credit worthiness check is a full bureau check.

9. The method of claim 1 wherein said credit worthiness check is a partial bureau check.

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10. The method of claim 1 wherein said performing a credit worthiness check comprises determining at least one of a credit account limit, an annual percentage rate, and an account type, for customers who have met specified criteria for said credit pre-approval determination.

11. The method of claim 1, further comprising printing out said invitation and providing a term or a condition of said invitation.

12. The method of claim 1, wherein said providing of said invitation comprises offering said customer an incentive to accept said invention through at least one of a discount for a purchase and a reduced interest rate.

13. The method of claim 2, wherein said providing said customer information on how to access said invitation at a future date includes printing said information on a receipt at said point of sale system.

14. The method of claim 1, wherein data related to a declination of said invitation is transmitted to said server, and a customer record relating to said data is updated.

15. The method of claim 1, further comprising providing said customer with a charge card.

16. The method of claim 1, further comprising performing a fraud check, said fraud check including verifying said customer's identity.

17. A storage medium encoded with machine-readable computer program code for pre-screening customer data by a selling entity for a customer at a point of sale location, the storage medium including instructions for causing the selling entity to implement a method comprising:

receiving said customer data at a point of sale system; and

during the course of a single check out process at said point of sale location:

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transmitting said customer data to a server;

searching a database for said customer data;

performing a credit worthiness check to determine a credit pre-approval of said customer, said performing is done using a result of said searching and without knowledge of and uninitiated by said customer;

providing said customer with an invitation to open a charge account;

opening said charge account, upon acceptance of said invitation by said customer; and

selectively executing a charge purchase during said check out process at said point of sale system.

18. The storage medium of claim 17, further comprising:

holding said invitation open for a predetermined period of time; and

providing said customer with information on how to access said invitation at a future date.

19. The storage medium of claim 17, wherein said customer data includes at least one of said customer's:

name;

address;

telephone number;

social security number;

photo identification card; and

membership card relating to said selling entity.

20. The storage medium of claim 17, further comprising determining whether a membership status of said customer is active or inactive; wherein further said credit worthiness check is performed on customer data with an active status.

21. The storage medium of claim 17, further comprising determining whether said customer has a current charge account with said selling entity.

22. The storage medium of claim 17 wherein said credit worthiness check is performed by a credit bureau.

23. The storage medium of claim 17, wherein said credit worthiness check is performed by a credit issuer.

24. The storage medium of claim 17 wherein said credit worthiness check is a full bureau check.

25. The storage medium of claim 17 wherein said credit worthiness check is a partial bureau check.

26. The storage medium of claim 17 wherein said performing a credit worthiness check comprises determining at least one of a credit account limit, an annual percentage rate, and an account type for customers who have met specified criteria for said credit pre-approval determination.

27. The storage medium of claim 17, further comprising printing out said invitation and providing a term or a condition of said invitation.

28. The storage medium of claim 17, wherein said providing of said invitation to comprises offering said customer an incentive to accept said invention through at least one of a discount off of a purchase and a reduced interest rate.

29. The storage medium of claim 18, wherein said providing said customer information on how to access said invitation at a future date includes printing said information on a receipt at said point of sale system.

30. The storage medium of claim 17, wherein data related to a declination of said invitation is transmitted to said server and a customer record relating to said data is updated.

31. The storage medium of claim 17, further comprising providing said customer with a charge card.

32. The storage medium of claim 17, further comprising performing a fraud check, said fraud check including verifying said customer's identity.

33. A system for pre-screening customer data of a customer by a selling entity at a point of sale location, comprising:

at least one point of sale system coupled to a communications link;

a server coupled to said at least one point of sale system via said communications link;

a data storage device in communication with said server; and

a link to a credit information server;

wherein, without knowledge of and uninitiated by said customer, said customer data is processed and a credit pre-approval determination is made prior to said customer selecting a payment method.

34. The system of claim 33, wherein said point of sale system:

receives said customer data;

transmits said customer data to said server;

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processes check out activities;
receives credit pre-approval determination information from said server;
prints out data related to said credit pre-approval determination information;
and
in response to a consent of a pre-approved customer, generates an
account number; and
selectively charges a purchase of merchandise selected by said customer.

35. The system of claim 33, wherein said server:

accesses a customer record relating to said pre-approval determination;
and

in the event said customer data stored in said customer records meets
specified criteria, transmits said customer data to said credit information server
for a credit worthiness check.

36. The system of claim 33, wherein said link to a credit information
server includes a dedicated telephone line.

37. The system of claim 33, wherein said link to a credit information
server includes an Internet connection.

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Appendix B - Evidence

This appendix is empty.

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Appendix C - Related Proceedings

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No other appeals or interferences are known to Appellant or Appellant's legal representative which will directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

Therefore, there are no copies of decisions rendered by a court or the Board in any related proceeding to include herewith.